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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DONALD J. BURKE, a Nevada resident; and
DONALD W. BURKE, a Nevada resident,
Plaintiffs,

v.

LEWIS INVESTMENT COMPANY OF
NEVADA, LLC, a Delaware Limited Liability
Company; KILEY RANCH SIX
APARTMENTS, LLC, a Delaware Limited
Liability Company; LUKE DRAGOVICH, a
Nevada resident, and DOES 1 through 10; and
ROE CORPORATIONS 1 through 10,
Defendants.

LEWIS INVESTMENT COMPANY OF
NEVADA, LLC, a Delaware Limited Liability
Company; KILEY RANCH SIX
APARTMENTS, LLC, a Delaware Limited
Liability Company; LUKE DRAGOVICH, a
Nevada resident,
Counterclaimants,

v.

DONALD J. BURKE, a Nevada resident; and
DONALD W. BURKE, a Nevada resident,
Counterdefendants.

Case No. 3:23-CV-00184-MMD-CSD

**ORDER GRANTING STIPULATION TO
EXTEND (1) BRIEFING SCHEDULE
RE: DEFENDANTS' MOTION FOR
ATTORNEY FEES [ECF NOS. 75, 81];
(2) TIME TO OBJECT TO
DEFENDANTS' BILL OF COSTS [ECF
NO. 74]; AND (3) APPEAL DEADLINE**

[FIRST REQUEST]

Donald J. Burke and Donald W. Burke, ("Plaintiffs"), and Lewis Investment Company of Nevada, LLC, Kiley Ranch Six Apartments, LLC and Luke Dragovich ("Defendants") (collectively the "Parties"), by and through their respective counsel, hereby file this Stipulation and [Proposed] Order to Extend (1) the Briefing Schedule for Defendants' Motion for Attorney Fees (ECF Nos. 75,

81); (2) the time for Plaintiffs to file an objection to Defendants' Bill of Costs (ECF No. 74); and
(3) the Appeal Deadline.

THE PARTIES HEREBY STIPULATE AND AGREE as follows:

1. Defendants filed the Defendants'/Counterclaimants' Motion for Attorney Fees and Costs (ECF No. 75)¹ ("Fee Motion") and Bill of Costs (ECF No. 74) on February 20, 2025. As a result of the Fee Motion's request for joint and several liability between Plaintiffs and their attorney of record, Jeremy B. Clarke, Esq., a clear and irreconcilable conflict has arisen between Plaintiffs and the undersigned. Clarke Law is simultaneously filing a Motion to Withdraw as Counsel of Record for Plaintiffs/Counterdefendants herewith.

2. Pursuant to FRCP 54(d) and LR 54-1, Plaintiffs have 14 days to both oppose the Fee Motion and object to the Bill of Costs. Accordingly, Plaintiffs' responsive pleadings are due on March 5, 2025. The parties stipulate and agree to a 75-day extension of time to oppose the Fee Motion and object to the Bill of Costs to allow both Plaintiffs and Clarke Law sufficient time to obtain new counsel to represent their now conflicting interests moving forward. Therefore, this Stipulation requests an extension from March 5, 2025, to May 19, 2025, for Plaintiffs and Clarke Law to obtain new counsel and file their respective responsive pleadings to the Fee Motion and Bill of Costs, respectively.

3. Defendants' counsel represents another client that has a firm trial setting for May 19, 2024.² Additionally, the Parties anticipate that Plaintiffs and the undersigned will file separate oppositions to the Fee Motion and objections to the Bill of Costs, requiring Defendants to respond to multiple briefs. Therefore, the Parties further stipulate that Defendants' time to file replies to the Fee Motion and respond to any objections to the Bill of Costs shall be extended by 30 days—from May 26, 2025 to June 25, 2025.

4. The Judgment in this matter was entered on February 5, 2025. (ECF No. 65). Pursuant to the Federal Rule of Appellate Procedure 4(a)(1), Plaintiffs have 30 days after entry of

¹ This should also include the Errata filed on February 20, 2025 (ECF No. 81).

² Min. Order [setting trial], *McIntosh v. City of N. Las Vegas*, No. 2:21-cv-01505-APG-EJY (D. Nev. Apr. 26, 2024).

the judgment to file their notice of appeal. Accordingly, the appellate deadline is March 7, 2025. FRAP 4(a)(4) allows for an extension of time, not to exceed 30 days from the original deadline, upon a finding of good cause. Therefore, the Parties stipulate and agree good cause exists to extend the March 7, 2025 appeal deadline by 30 days. This Stipulation is requesting that the appeal deadline be extended to April 6, 2025.

GOOD CAUSE EXISTS TO GRANT THE REQUESTED EXTENSION

FRAP 4(a)(4) allows for an extension of time, not to exceed 30 days from the original deadline, upon a finding of good cause. In light of the unwaivable and irreconcilable conflict of interest that has arisen between Plaintiffs and their counsel of record, Clarke Law, the Parties believe good cause exists to allow a 30-day extension to the deadline for Plaintiffs to file a notice of appeal. Plaintiffs and Clarke Law, as discussed above, need additional time to find and retain new counsel. The new attorney(s) will need time to get up to speed on the case and analyze whether a notice of appeal is appropriate. At present, Plaintiffs and Clarke Law's interests are adverse and Clarke Law is barred from ethically representing Plaintiffs moving forward. *See Nevada Rules of Professional Conduct, 1.7(a)(2) and 1.16(a)(1).*

As this case is closed, the Parties believe there will be no prejudice to any party should this Court grant the Stipulation.

IT IS SO STIPULATED.


DATED this 28th day of February, 2025.

DATED this 28th day of February, 2025.

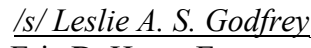
CLARKE LAW, PC

HONE LAW

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ORDER

IT IS HEREBY ORDERED that:

1. Plaintiffs' and Clarke Law's time to file an opposition to the Fee Motion and an objection to the Bill of Costs shall be extended by 75 days—from March 5, 2025, to May 19, 2025;
2. Defendants' time to file a reply to the Fee Motion and respond to an objection to the Bill of Costs shall be extended by 30 days—from May 26, 2025, to June 25, 2025; and
3. Plaintiffs' time to file an appeal of the February 5, 2025 Order (ECF No. 64) and Judgment (ECF No. 65) shall be extended by 30 days—from March 7, 2025, to April 6, 2025.



UNITED STATES DISTRICT JUDGE

DATED: March 3, 2025

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